

REMARKS:

Status of the Claims

Claims 1-21 were originally filed. In the September 11, 2008 Amendment, claims 10 and 17 were canceled. The remaining claims 1-9, 11-16, and 18-21 stand rejected in the January 22, 2009 Office Action. No cancellation of claims is made in this Amendment. Accordingly, upon entry of this Amendment, the same set of claims (i.e., claims 1-9, 11-16, and 18-21) will be pending.

Unpredictability of the Art and the Present Invention

The art in counteracting malodors is unpredictable. Various mechanisms have been suggested for different malodor counteractants. For example, conventional fragrance materials are developed to mask malodors. The blend of fragrance materials and the malodor compound may sometimes provide a different and more desirable aroma; or when fragrance materials are employed in a large quantity, they may also overwhelm the malodor compound (*See*, the Published Specification, paragraphs [0010] to [0012]). Additionally, certain malodor counteractants may bind to the same receptors in the nose as the malodor molecules, thereby counteract the perception of malodors by rendering these receptors unavailable to malodor molecules (*See*, the Published Specification, paragraph [0013]).

The industry has spent great efforts in identifying malodor counteracting compositions (*See*, the Published Specification, paragraph [0014]). However, there is no generalization in providing an effective malodor counteracting composition. For example, when a fragrance composition is used, it may not completely eliminate the perception of malodor and therefore there is a tendency to use an increased amount or add additional fragrance materials. However, the masking effect is additive and so the total odor level will be undesirably increased. Further, the fragrances so used may be individually pleasant at low concentrations, while offensive at high concentrations (*See*, the Published Specification, paragraph [0013]). Accordingly, it is unpredictable to provide an effective composition containing a combination of malodor counteractants.

Applicants respectfully submit that the present invention is directed to a synergistically-effective composition in counteracting malodors, which uniquely contains zinc ricinoleate and at least one substituted monocyclic organic compound as disclosed.

Claim Rejections - 35 U.S.C. § 103

• O'Connor (US 6,432,891) in view of Triplett *et al.* (US 2003/0199402)

Claims 1-9, 11-16, and 18-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Connor (US Patent 6,432,891) in view of Triplett *et al.* (US Patent Application Publication 2003/0199402). Examiner alleges that the declaration filed on September 11, 2008 under 37 CFR 1.131 is ineffective to overcome the filing date of the Triplett *et al.* reference as not all the inventors signed the declaration. However, Examiner acknowledges that if the requisite signatures or statement are provided, the claimed subject matter of claims 2-8 would antedate the filing date of the Triplett *et al.* reference (See, Office Action, page 2, line 16 to page 3, line 7).

In response, Applicants respectfully resubmit the declaration signed by inventors PRABODH P. PAREKH, STEPHEN NICOLL, VELLIDUM RAMSAMMY, ALISON BETZ, VIKAS M. DESHPANDE, and RICHARD BODEN. Among the remaining inventors, KRISTINE K. COLT refused to sign and WIJNANDA HENDRIKA VAN KIPPERSLUIIS was not reachable. The last known address of WIJNANDA HENDRIKA VAN KIPPERSLUIIS is set forth as below:

Heidelaan 46
1406 Bussum, Netherlands

In accordance with MPEP § 409.03(d), paragraph I, copies of the documentary evidence including the cover letters of instructions, the certified mail return receipt signed by KRISTINE K. COLT, and the mail label showing the last known address of WIJNANDA HENDRIKA VAN KIPPERSLUIIS as undeliverable are enclosed herewith. Thus, the declaration currently being submitted is considered to fully comply with 37 C.F.R. § 1.47. A fee set forth in MPEP § 1.17 (g) is also submitted herewith.

In view of the foregoing, Applicants respectfully submit Triplett *et al.* are not valid prior art. Accordingly, the currently pending claims (i.e., independent claim 1 and dependent claims 2-9, 11-16, and 18-21) are novel and patentable in view of the single reference of O'Connor, which lacks the teaching of zinc ricinoleate as recited in the claimed invention.

• **O'Connor (US 6,432,891) in view of Rohe *et al.* (US 4,968,496)**

Claims 1-9, 11-16, and 19-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Connor (US Patent 6,432,891) in view of Rohe *et al.* (US 4,968,496). Examiner alleges that the missing element of zinc ricinoleate in O'Connor can be found in Rohe *et al.*, and it would be obvious to one of ordinary skill in the art at the time the invention was made to have combined the composition taught by O'Connor with that taught by Rohe *et al.* to counter malodor (See, Office Action, page 4, lines 6-12). Applicants respectfully disagree.

As disclosed in the present invention (See, the Published Specification, paragraph [0015]), Rohe *et al.* describe the known use of zinc ricinoleate as a deodorant material (See, Rohe *et al.*, col. 1, lines 21-27). However, the inventive finding of Rohe *et al.* is directed to the novel use of the hydrolyzed ene-adducts and Diels-Alder adducts of ricinene fatty acids and maleic anhydride in deodorization (See, Rohe *et al.*, col. 2, lines 12-34). In addition, Rohe *et al.* also teach zinc compounds of multiply hydroxylated higher fatty acids, oxamines and resin acids (See, Rohe *et al.*, col. 1, lines 11-12).

In view of the disclosure of different malodor counteractants and the fact that no sufficient direction or guidance is given by Rohe *et al.* for making the claimed composition, Applicants respectfully submit that Examiner used hindsight reconstruction to selectively pick and choose among isolated disclosures in the prior art to establish a case for obviousness (See, *In re Fine*, 837 F.2d 1071; and *in re Ben HUANG* 100 F.3d 135). It is respectfully submitted that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning using Applicants' disclosure. Applicants respectfully submit it would not have been obvious to one skilled in the art to make the specific

combination to achieve the composition with a reasonable expectation that the resulting composition would possess a synergistic effect in deodorization.

For at least these reasons, Applicants respectfully submit that the claimed invention is non-obvious in view of Jacquot *et al.* Applicants respectfully request that the 35 U.S.C. § 103 rejection be withdrawn.

- **O'Connor in view of Rohe *et al.*, and further in view of Pavlin *et al.* (US 5,783,657)**

Claims 18 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Connor in view of Rohe *et al.* as applied to claim 1 above, and further in view of Pavlin *et al.* (US 5,783,657) (*See*, Office Action, page 4, lines 18-20). Applicants respectfully disagree.

Claims 18 and 21 depend, directly or indirectly, from claim 1. A claim that "depends from a prior claim" incorporates all the limitations of the prior claim (*See*, 35 U.S.C. 112, 4th paragraph). When an independent claim is patentable over the prior art, its dependent claim should be deemed patentable as it incorporates all the limitations of the independent claim and further limits the independent claim. Since independent claim 1 is believed to be patentable over O'Connor in view of Rohe *et al.* for the reasons set forth above, claims 18 and 21 are believed to be patentable over the same prior art by virtue of their dependency from claim 1. Accordingly, Claims 18 and 21 are considered to be patentable over Pavlin *et al.* alone. For at least these reasons, Applicants respectfully request that this 35 U.S.C. § 103 rejection be withdrawn.

CONCLUSION:

In view of the foregoing, Applicants respectfully request reconsideration, withdrawal of rejections, and allowance of all claims is earnestly solicited.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment to the Deposit Account No. 12-1295.

Respectfully submitted,



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